

Summary of Part 602—Accreditation

Overview

This negotiated rulemaking effort is designed to modify the regulations that pertain to accreditor recognition in order to provide accreditors, and the institutions they accredit, with greater latitude to innovate; to create healthy competition among institutions and accreditors; to provide agencies with increased independence in their recognition and oversight responsibilities; and to reduce unnecessary regulatory burden and oversight redundancies.

There are also a number of technical corrections that will be included in this rulemaking effort to better conform with statute and provide greater regulatory clarity.

§ 602.3 What definitions apply to this part?

- Clarify the definition of “compliance report” and add a new definition of “monitoring report” to differentiate between accreditor reports that must be reviewed and approved by NACIQI versus those that may be reviewed and approved by staff analysts.
- Require in the definition of “recognition” that an agency be “consistent” in addition to “effective” in its application of its criteria.
- Clarify in the definition of “scope of recognition” that the Secretary’s recognition of one agency’s geographic scope does not preclude another agency from also including a given state or territory in its geographic scope.
- Update the definition of “Senior Department Official.”
- Add a definition for “substantial compliance.”

§ 602.10 Link to Federal programs.

- Clarify that an agency has a link to federal programs and therefore can be recognized by the Department if it accredits institutions with multiple accreditation under § 600.11.
- Clarify that an agency’s geographic scope of accrediting activities must be properly defined and create a clear distinction between regional agencies, with activities covering up to ten States, and national agencies, with activities covering most or all of the States.
 - The Department wishes to return to the original purpose of regional accreditation, which is to support activities that were unique or exclusive to a region of the country.
 - Over time, regional agencies have started to approve campuses in other regions, and to serve students via distance education across the country. The Department wishes to enable such activities for national accrediting agencies while also preserving a role for agencies with more limited geographic scope and drawing a clear distinction between the two.
 - The Department further believes some regional agencies have abused the current distinction to push a false narrative that the Department considers regional accreditation to be superior to national accreditation. Many institutions have denied well-qualified students attending nationally accredited institutions the opportunity to transfer credits, attend graduate programs, and enjoy other benefits that should rightfully belong to all students attending institutions with recognized accreditation.

- The Department seeks to level the playing field among accreditors who benefit from the Department's recognition and the billions in Federal student aid that is made available to accredited institution's students.

§ 602.12 Accrediting experience.

- Eliminates the "chicken-and-egg" problem of the earlier regulations that required an agency to demonstrate that it has accredited or preaccredited institutions under elements of an expanded scope for which the agency is not currently approved to accredit or preaccredit institutions.
- Instead, accreditors must have policies in place that meet criteria and may face limitations on growth or expansion if they cannot demonstrate appropriate experience.

§ 602.13 Engagement of employers and practitioners in Agency Decisions

- This requirement is viewed by the Department as an anti-competitive provision.
- Instead of requiring acceptance of an agency's standards, policies, procedures, and decisions by a large number of groups, instead require input from or acceptance by practitioners and employers.

§ 602.14 Purpose and organization.

- Delete the table, which many have found to be confusing, and reorder in traditional outline form in order to simplify.
- Strengthen the "separate and independent" requirement to avoid conflicts of interest and remove the waiver approval process, which is allowed but not required in statute. The Department believes that some relationships between accreditors and affiliated entities has reduced the number of pathways available to individuals who wish to practice in a given occupation or field, and may result in credential inflation that disadvantages newcomers to the field and reduces the likelihood that low-income students can pursue the occupation.

§ 602.15 Administrative and fiscal responsibilities.

- Allow employers as well as practitioners, to serve on accreditor decision-making bodies to ensure that academic programs align with contemporary workforce needs.
- Reduce record-keeping burdens.
- Make other technical changes to improve the clarity of these regulations.

§ 602.16 Accreditation and preaccreditation standards.

- Clarify that agencies are not required to apply standards related to Title IV compliance to institutions or programs that do not participate in Title IV HEA programs.
- Require recognized agencies whose scope includes distance education and/or correspondence courses to establish clear definitions that distinguish between distance and correspondence education and that define "regular and substantive interaction," in a manner consistent with the definitions in § 600.2.
- Clarify that no single form of institutional governance is required by statute or regulations, and allow institutions that offer career, occupational or vocational programs to establish alternative governance models that rely on the recommendations of employers and gain approval outside of the traditional shared-governance model. The alternate governance model will reduce the time required to make necessary program changes and enable programs to keep pace with changing workforce needs
- Make other technical corrections to improve the clarity of the regulations.

- The Department seeks recommendations from negotiators about when and how agencies should be allowed to grant waivers to institutions, such as to support innovation or in situations where an institution cannot reasonably be expected to comply with a given standard. The Department wishes to integrate a consideration of student outcomes into any waiver process.
- The Department also seeks recommendations from negotiators on how it could discourage or prevent accreditors from aligning with state licensing bodies or other vocational credentialing boards to exclude the licensure of individuals who prepare for work through apprenticeship, the military, or other work-based learning pathways, and to prevent accreditors from responding to efforts to expand or elevate credentials that serve as minimum requirements for licensure or certification. The Department also seeks the advice of negotiators on how to ensure that transfer of credits remain the decision of institutions, but disallow institutions from categorically denying credits from national accreditors if the courses completed by the student are in alignment with those offered by the accepting institution.

§ 602.17 Application of standards in reaching an accrediting decision.

- Provide greater flexibility for institutions to innovate by allowing accreditors to establish alternative standards rather than relying on commonly or widely accepted requirements that favor the status quo.
- Clarify that an institution's accreditation self-study must focus on the institution's efforts and ability to meet its learning objectives and those of its students.
- Require agencies to rely on evidence rather than anecdotes when making an accrediting decision.
- The Department seeks advice from negotiators on how to ensure continuous improvement and rigorous outcomes, while at the same time avoiding one-size-fits-all solutions that fail to appropriately account for differences in institutional mission, occupational pathways, or the accountability that students have for their own success. The Department seeks to ensure that it, and NACIQI, does not violate the statutory prohibitions on dictating student achievement standards, while at the same time requiring institutions to achieve strong outcomes.
- Update the methods by which institutions offering programs via distance education, correspondence education, or other delivery methods may verify student identity to ensure institutions have sufficient flexibility to manage such programs with appropriate safeguards.

§ 602.18 Ensuring consistency in decision-making.

- Add direct assessment as an additional focus of the requirements of this regulation.
- Eliminate several requirements that are duplicative or unduly burdensome.
- Provide an opportunity for an institution or program to obtain agency review of claims of inequitable treatment, and a written response from the agency;
- Add a provision requiring a written response from agencies if an institution feels its religious mission has not been appropriately respected.
- Require agencies to clearly define their policies for retroactive application of accreditation decisions. These policies are critical to ensuring that the first class of students are not precluded from practicing in a given occupation since some accreditors will not make a final accreditation decision until the first cohort of students graduates.

§ 602.19 Monitoring and reevaluation of accredited institutions and programs.

- Require agencies to monitor institutional enrollment s and report to the Secretary any institution that increases its enrollment by more than 50 percent in a given academic year. Require agencies that received an approved expansion of scope to be reviewed by NACIQI if any institution accredited by the agency under the expanded scope increased their enrollment in distance education or correspondence courses by more than 50 percent.

§ 602.20 Enforcement of standards.

- Revise enforcement provisions to remove overly-prescriptive timelines that don't recognize the amount of time it can take for changes in curricula or admissions process to impact student outcomes.
- Require that an agency has policies in place to identify areas of non-compliance, notify an institution or program of such findings, evaluate a corrective action plan submitted by the institution or program, monitor progress towards becoming compliant, provide good-cause extensions if warranted, ensure that compliance has been achieved or take adverse action when necessary.
- In the event of the loss of accreditation, permit agencies to provide a sufficient amount of time for the institution to implement a teach-out plan or find teach-out partners before closing.
- Give agencies, including institutional accreditors, the ability to limit negative actions, including the revocation of accreditation, to specific programs or additional locations that are noncompliant without necessarily revoking the accreditation of an entire institution or all of its programs.
 - The Department believes institutions often escape sanction because the penalties and tools available to agencies are too harsh and inflexible. Instead, agencies may be more likely to take swift action and apply sanctions when needed if they can more effectively target their action to the specific areas of non-compliance.
- Clarify that, in accordance with statute, an institution must first engage in arbitration before pursuing a legal remedy against an accreditor, including in the event of an adverse action.
- Clarify that agencies do not have the responsibility for enforcing certain title IV requirements that are the responsibility of the Department. This includes monitoring compliance with program participation agreements, performing federal financial responsibility audits or reviews (other than for the purpose of ensuring that the institution has sufficient resources to administer their educational programs), and ensuring compliance with the Clery Act, among other things.
 - Agencies will still be required to report to the Department any title IV violations discovered through accreditation review, but they will not be responsible for auditing requirements that are the sole responsibility of the Department or States.
- Clarify that agencies are not required to apply the standards required by the Department's recognition criteria in making accreditation decisions for institutions or programs that do not participate in any title IV, HEA or other Federal program.

§ 602.21 Review of standards.

- Require that agencies periodically review and update their standards, but allow agencies to develop their own policies and procedures for how often they must conduct these reviews.

- Remove the requirement that an agency must initiate action to update their standards within 12 months and allow agencies to develop timelines appropriate to their scope and the size of their membership.
- Make other technical corrections to improve regulatory clarity.

§ 602.22 Substantive changes and other reporting requirements.

- Revise the definition of substantive changes to limit the actions that require agency pre-approval to high risk activities. Substantive change approvals are costly and time-consuming, and can interfere with an institution's ability to be responsive to workforce needs. Institutions in good standing should be given more latitude to make changes without needing prior agency approval.
- Include a list of other changes that institutions in good standing can implement without prior approval.
- Affirm that certain accreditor decisions can be dated retroactively to ensure that students enrolled in a program that received accreditation benefit fully from that decision..
- Make other technical corrections for clarity.

§ 602.23 Operating procedures all agencies must have.

- Clarify the agency's decision-making timeline, and explain the order in which accreditor, State and Department approval should occur.
- Clarify the information that an agency must make available to the public about its accreditation decisions and its member institutions as well as the members of its decision making bodies.

§ 602.24 Additional procedures certain institutional accreditors must have.

- Remove language regarding the sequencing of agency approval of branch campuses and additional locations.
- Require that an institution provide an updated teach-out plan when it notifies the agency of its intent to move a location.
- Revise the requirements for approving teach-out agreements to ensure that students enrolled in ground-based programs are given ground-based transfer or completion options. Online options may also be provided, but ground-based options must be included.
- Add the requirement that agencies conform their use of the terms "branch campus" and "additional location" with § 600.2. This will alleviate confusion that currently exists as a result of inconsistent utilization of those terms by accreditors and the Department.
- Remove the regulations related to credit hour policies.
- Make other technical corrections to improve clarity.

§ 602.25 Due process.

- In the event that decisions of the appeals body is remanded to the original decision-making body, requires the appeals body to explain the basis for a decision that differs from that of the original decision-making body..
- Make other technical corrections to improve clarity.

§ 602.26 Notification of accrediting decisions.

- Shorten the amount of time that an agency has to notify the Department of a negative action to within three business days of notifying the institution or program.

§ 602.27 Other information an agency must provide the Department.

- Remove the requirement to submit an annual report to the Department.
- Revise the request for confidentiality made by the Secretary regarding information provided by the agency regarding an institution's compliance with its title IV, HEA program responsibilities.
- Make other reorganization and technical, conforming, or word-choice edits for clarity.

§ 602.28 Regard for decisions of States and other accrediting agencies.

- Provide limited exceptions to the prohibition on granting initial or renewed accreditation or preaccreditation to an institution or program that is on probation or the equivalent with another recognized agency. For example, if the agency has violated its due process procedures or has put an institution or program on probation due to an institution's religious mission, it may be reasonable for the institution or program to seek accreditation from another recognized agency.

§ 602.30 Activities covered by recognition procedures.

Delete and reserve this section, which listed the activities covered by the recognition procedures in other sections.

§ 602.31 Agency submissions to the Department.

- Require agencies to include in their petition for recognition or continuation of recognition all documents required by the Secretary as published in the Federal Register.
- Require agencies to redact business information from the documents provided to the Department, including in its petition for recognition, to protect sensitive information in the event that the documents are subject to a FOIA request.
- Require agencies to provide staff with information redacted by the agency in its submissions to the Department.
- Permit the Secretary to limit the length of agency submissions.

§ 602.32 Procedures for Department review of applications for recognition or for change in scope, compliance reports, and increases in enrollment.

- Require agencies seeking renewal of recognition to submit, two years prior to the expiration of their current term of recognition, a petition, copies of their standards and policy manuals, and a list of their upcoming accrediting reviews or decisions, including the timeline if known.
- Provide that Department staff may consider legal complaints or other actions, but those actions will not be deemed to be determinative unless there is a final determination on the merits.
- Expand the available options for staff when reviewing an agency's compliance with recognition requirements to include compliant, substantially compliant or non-compliant and expand the final staff recommendation to include approval, approval with compliance reporting requirements, approval with monitoring report requirements, denial, limitation, suspension or termination of recognition.
- Revise the timeframes for the recognition review process to provide more time for agencies to respond to the Department and for NACIQI to review documents prior to their meetings.
- Provide for review and decisions by the Department on requests for expansion of scope submitted outside of the regular renewal of recognition process.
- Make other technical corrections to improve regulatory clarity.

§ 602.33 Procedures for review of agencies during the period of recognition.

- Clarify that compliance reviews are limited to the Secretary's Criteria for Recognition.
- Revise compliance review procedures to differentiate between reviews that can be completed by staff and those that must be reviewed by NACIQI.
- Make other technical corrections for clarity.

§ 602.34 Advisory Committee meetings.

- Clarify that the agency's response to the draft staff analysis is provided to NACIQI.
- Revise the recommendations available to the NACIQI to include those listed in 602.32.

§ 602.35 Responding to the Advisory Committee's recommendation.

- Revise the timeframe for an agency and Department staff to submit written comments to the senior Department official to 10 business days.
- Revise the timeframe for an agency and Department staff to submit written comments to the senior Department official in response to written comments received by the other party to be 10 business days.
- Add the limitation that no additional comments or new evidence may be submitted by either party after the responses to the first comments are submitted.

§ 602.36 Senior Department official's decision.

- Revise the options available to the senior Department official to include those listed in 602.23
- Clarify that the 12 months period in which an agency must come into compliance begins on the date that the agency is notified of the Senior Department Official's decision.
- Make other technical corrections for clarity.

§ 602.37 Appealing the senior Department official's decision to the Secretary.

- Revise the timeframe for an agency to notify the Secretary and the senior Department official in writing of its intent to appeal to be 10 business days.
- Add the limitation that no additional comments or new evidence may be submitted by either party once the agency's appeal and the senior Department official's response are submitted.
- Make other technical corrections to improve regulatory clarity.

Summary of Part 603— Secretary's Recognition Procedures for State Agencies

§ 603.24 Criteria for State agencies.

- Remove the regulations related to credit hour policies.